

REMARKSThe claims

Claims 37-66 are currently pending in the application. Certain claims have been amended in order to place them in condition for allowance. Claims 67-69 have been added. The new claims are fully supported in the specification and do not introduce new matter or raise new issues requiring further consideration and/or search. Entry of the new claims is respectfully requested.

Objections to the drawings

The drawings were objected to because Figures 1 and 4 contain a sequence listing without an appropriate SEQ ID NO. Applicant has amended the specification to introduce the appropriate SEQ ID NO's into the "Description of the Figures".

The drawings were objected to because Figures 5 and 6 contain symbols which are not present in the specification. Applicant has amended the specification to introduce the appropriate symbols in the "Description of the Figures".

Objections to the claims

Claims 48, 49, 65 and 66 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. These claims have been amended to correct the dependency thereby rendering the objection moot.

Claims 48 and 62 are objected to because the claims are allegedly unclear. Applicant acknowledges the Examiner's suggestions for amending the claims. The claims have been amended to correct the Markush groups in the claim and to clarify

the claimed invention. It is believed that the rejection is moot.

Rejections under 35 U.S.C. 112

Claims 37 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for use of the term "modulator". Claims 37 and 52 have been amended to delete reference to the term "modulator" thereby rendering the rejection moot.

Claims 37 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps reciting what and to whom is being administered to fulfill the treatment as set forth by the claim preambles. Applicant acknowledges the Examiner's suggestions for amending the claims. Claims 37 and 52 have been amended to clarify the invention. It is believed that the rejection may be withdrawn.

Obviousness-type double patenting

Claims 37-66 are provisionally rejected under obviousness type double patenting as being unpatentable over claims 30-38 of co-pending U.S. Serial No. 09/791153 (cited by the Examiner as published U.S. patent application no. 2003/0103978). It is argued that the conflicting claims are not patentably distinct because they are both directed to a method of inhibiting osteoclast formation or activation comprising administering an antibody or antigen binding domain, or a fragment, variant or derivative thereof, which binds an osteoprotegerin binding protein and is an antagonist antibody.

Applicant notes that co-pending U.S. Serial No. 09/791,153 has a filing date of February 22, 2001 and claims priority to U.S. Serial No. 09/511,139 filed February 23, 2000, thereby having an earliest filing date nearly three years later

than that of the present application. Merely for the sake of argument and without acquiescing to the rejection, if it is assumed that Claims 37-66 are not patentably distinct over Claims 30-38 of the '153 application, the filing of a terminal disclaimer in the present case to overcome the rejection would not alter the term for Claims 37-66. It is believed that the rejection for obviousness-type double patenting may be withdrawn.

Applicant acknowledges that the rejections of Claims 37-49 under 35 U.S.C. 112, first paragraph, and Claims 37 and 38 under 35 U.S.C. 102(a) have been withdrawn.

CONCLUSION

Claims 37-69 are in condition for allowance and an early notice thereof is solicited.

Respectfully submitted,

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